

## Message Text

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ACTION DLOS-09

INFO OCT-01 ISO-00 ACDA-12 AGRE-00 AID-05 CEA-01  
CEQ-01 CG-00 CIAE-00 COME-00 DODE-00 DOTE-00  
EB-08 EPA-01 SOE-02 DOE-15 FMC-01 TRSE-00 H-01  
INR-10 INT-05 IO-13 JUSE-00 L-03 NSAE-00 NSC-05  
NSF-01 OES-07 OMB-01 PA-01 PM-05 SP-02 SS-15  
ICA-11 AF-10 ARA-10 EA-10 EUR-12 NEA-11 OIC-02  
/191 W

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R 161059Z MAY 78 ZDK  
FM USMISSION GENEVA  
TO SECSTATE WASHDC 9662

C O N F I D E N T I A L SECTION 01 OF 02 GENEVA 07474

E.O. 11652: GDS  
TAGS: PLOS  
SUBJECT: LOS CONFERENCE - MAY 11 HIGHLIGHTS

BEGIN SUMMARY. PLENARY RESUMED DELIBERATIONS ON THE  
PREAMBLE AND FINAL CLAUSES AFTER THE PRESIDENT'S REPORT  
ON THE PROGRESS OF WORK. NG-1 COMPLETED DISCUSSIONS ON  
NJENGA TEXTS. NG-2 CHAIRMAN KOH WILL RELEASE A REPORT OF  
THE TECHNICAL EXPERTS GROUP. THE QUESTION OF THE STATUS  
OF THE EEZ GENERATED WIDESPREAD ACTIVITY IN COMMITTEE II.  
VALLARTA'S WORKING GROUP RECEIVED SOME AGREED POLLUTION  
AMENDMENTS. NG-5 ACHIEVED COMPROMISE ON ECONOMIC ZONE  
FISHERIES DISPUTES. END SUMMARY.

1. AFTER OPENING THE PLENARY WITH A MOMENT OF SILENCE IN  
HOMAGE FOR THE LATE ALDO MORO, AMERASINGHE SUMMARIZED  
THE NEGOTIATING GROUP REPORTS. IN NG-1 THE PACKAGE OF  
COMPROMISE PROPOSALS HAS BEEN INTRODUCED AND IS NEAR  
ACCEPTANCE (GROUP REQUIRES ADDITIONAL TIME TO COMPLETE  
ITS WORK). OF THE THREE MAIN ITEMS IN NG-2, THE FIRST  
TWO HAVE BEEN RESOLVED WITH FINANCIAL TERMS OF CONTRACTS  
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STILL PENDING. NG-3 CONTINUES ITS WORK BUT REQUIRES MORE  
TIME TO DISCUSS THE COUNCIL AND VOTING. IN NG-4, THERE  
WERE NO NEW DEVELOPMENTS. ARTICLE 196 AND 197 HAVE  
RECEIVED WIDE-SPREAD SUPPORT IN NG-5. NG-6 REQUIRES  
FURTHER EFFORTS TO BREAK THE DEADLOCK; REVENUE SHARING AS  
YET HAS NOT BEEN FULLY DISCUSSED. IN NG-7, ONE FINAL  
ATTEMPT WILL BE MADE TO REACH A SOLUTION ON THE

OUTSTANDING ISSUES.

2. THE PLENARY THEN RESUMED DISCUSSION ON THE PREAMBLE AND FINAL CLAUSES WITH A REHASH OF PREVIOUS ARGUMENTS. MOST OF THE DISCUSSION FOCUSED ON THE PROPOSAL (CO-SPONSORED BY FIJI, NEW ZEALAND, PAPUA NEW GUINEA AND SURINAM) TO REPLACE ARTICLES 298 AND 299. THIS NEW ARTICLE WOULD MAKE THE LOS CONVENTION OPEN FOR SIGNATURE BY STATES AND BY TERRITORIES INVITED BY UNGA RESOLUTION TO ATTEND AS OBSERVERS TO UNCLOS.

A NUMBER OF ARAB STATES (BAHRAIN, SYRIA, LIBYA, TUNISIA, YEMEN AND EGYPT) TOOK THIS OPPORTUNITY TO PUSH FOR NATIONAL LIBERATION MOVEMENTS TO BECOME PARTIES TO THE TREATY. ISRAEL REJECTED THE CONTENTION THAT SUCH MOVEMENTS BE INCLUDED. THE USSR SAID IT WILL SUPPORT THE RIGHT OF THE PLO TO PARTICIPATE AND TO SIGN THE CONVENTION.

3. THE U.S. (OXMAN) MADE THE FOLLOWING STATEMENT ON FINAL CLAUSES:

"MY DELEGATION HAS LISTENED WITH GREAT ATTENTION TO THE SUGGESTIONS MADE REGARDING FINAL CLAUSES. WHILE NOTING THAT CERTAIN MATTERS SUCH AS RESERVATIONS REMAIN TO BE CONSIDERED, WE HAVE FOUND VARIOUS POINTS MADE WITH RESPECT TO THE MATTERS UNDER DISCUSSION QUITE ILLUMIN-  
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ATING. WE BELIEVE MANY DELEGATIONS, LIKE OUR OWN, WOULD WISH TO STUDY THEM MORE CAREFULLY AND CONSULT MORE CLOSELY WITH THOSE CONCERNED ON THESE DELICATE QUESTIONS. IN THIS CONNECTION, WE BELIEVE IT WOULD BE A MISTAKE TO CONFUSE SUPPORT FOR NATIONAL LIBERATION MOVEMENTS AND THE DESIRE TO HEAR THEIR VIEWS WITH THE QUESTION OF INTERNATIONAL LEGAL CAPACITY TO BE A PARTY TO A LAW OF THE SEA CONVENTION. THERE IS NO PRECEDENT FOR THE LATTER STEP, AND SUCH PROPOSALS, IF PRESSED, COULD COMPLICATE EFFORTS TO RESOLVE OTHER ISSUES AND SECURE A WIDELY RATIFIED CONVENTION.

"MR. PRESIDENT, MY DELEGATION BELIEVES THE EXISTING TEXT ON PREAMBLE AND FINAL CLAUSES IS THE PROPER FOUNDATION FOR FURTHER CONSIDERATION OF THESE MATTERS. WE DO NOT BELIEVE A BASIS EXISTS FOR AMENDING THE EXISTING TEXT AT THE CURRENT SESSION."

4. NG-1 COMPLETED DISCUSSION OF THE NJENGA TEXTS ON ARTICLES 140, 143, 144, 150, 151, 153 AND ANNEX II, PARAS 4 AND 5. TANZANIA (SUPPORTED BY LIBYA, NIGER, AND ZAMBIA) WAS VERY CRITICAL OF THE NJENGA PROPOSALS.

OTHERS, ALTHOUGH EXPRESSING RESERVATIONS ON PORTIONS OF THE TEXT, PRAISED THE NG-1 CHAIRMAN FOR HIS CONSTRUCTIVE CONTRIBUTIONS WHICH WOULD MATERIALLY ADVANCE THE WORK OF THE CONFERENCE. NJENGA STATED HE WILL DISTRIBUTE ANOTHER TEXT ON MAY 12 WHICH WOULD INCLUDE NEW MATERIAL ON ARTICLE 150 BIS (PRODUCTION POLICIES)'

5. THE NG-2 WORKING GROUP ON FINANCIAL ARRANGEMENTS MET MAY 11, AT WHICH CHAIRMAN KOH SAID HE PLANNED TO PUBLISH A REPORT REFLECTING THE NEGOTIATIONS IN THE TECHNICAL EXPERTS GROUP. THE SOVIET UNION INDICATED A STRONG PREFERENCE THAT SPECIFIC FIGURES BE INCLUDED IN THE PAPER AND INDIA ADDED THAT OTHER COMMITTEE I COMPROMISES MIGHT BE HELD UP IF NUMBERS WERE NOT FORTHCOMING.  
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ACTION DLOS-09

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THE US AND SEVERAL OTHER INDUSTRIALIZED COUNTRIES SAID THAT, ALTHOUGH TREMENDOUS PROGRESS HAS BEEN MADE IN NEGOTIATING THE STRUCTURE OF FINANCIAL ARRANGEMENTS BETWEEN THE CONTRACTORS AND THE AUTHORITY, THE TIME WAS NOT YET RIGHT TO INSERT THE NUMBERS BECAUSE THE GAP WAS TOO WIDE BETWEEN THE G-77 AND THE INDUSTRIALIZED

COUNTRIES.

6. KOH ALSO MET WITH REPRESENTATIVE COUNTRIES (INCLUDING THE U.S.) TO DISCUSS THE DRAFT OF HIS PAPER. THE PAPER WAS NOT TOTALLY ACCEPTABLE TO THE U.S. BUT KOH SEEMED AMENABLE TO MAKING MOST OF THE CHANGES SUGGESTED BY THE USDEL.

KOH TOLD THE U.S. REPS THAT HE WAS UNDER GREAT PRESSURE TO INSERT AT LEAST THE ROYALTY NUMBER (WHICH WOULD MAINLY APPLY TO SOCIALIST STATES). THE U.S. RESPONDED THAT THIS WAS A QUESTION OF PERSONAL JUDGEMENT AS TO WHETHER IT WAS POLITICALLY NECESSARY TO PUBLISH SUCH A NUMBER, ALTHOUGH THE U.S. PREFERRED THAT THE NUMBER NOT BE INCLUDED, IT WOULD ACQUIESCE IN KOH'S JUDGEMENT  
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WHILE RESERVING THE RIGHT TO CRITICIZE THE FIGURE AS BEING ECONOMICALLY UNREALISTIC. THE REPORT IS DUE TO BE RELEASED MAY 12.

7. THE LEGAL STATUS OF THE EXCLUSIVE ECONOMIC ZONE (EEZ) WAS AGAIN THE TOPIC IN COMMITTEE II. PERU, URUGUAY, HONDURAS AND BRAZIL PROPOSED AND/OR SUPPORTED AMENDMENTS TO ARTICLES 56 (RIGHTS, JURISDICTION, AND DUTIES OF COASTAL STATES IN THE EEZ); 58 (RIGHTS AND DUTIES OF OTHER STATES IN THE EEZ); 59 (ATTRIBUTION OF RIGHTS AND JURISDICTION IN THE EEZ), AND 60 (ARTIFICIAL ISLANDS, INSTALLATIONS, AND STRUCTURES IN THE EEZ). THE THRUST OF THESE RESPECTIVE PROPOSALS WOULD BE TO TERRITORIALIZE THE EEZ. THEIR SUGGESTIONS WERE SUPPORTED BY THE PRC, SOMALIA, EL SALVADOR, PAKISTAN, AND NORTH KOREA. MADAGASCAR, OMAN, LIBYA BACKED PERU AND HONDURAS ON ARTICLE 58 TO PROHIBIT MILITARY MANEUVERS, ETC. THIS ATTEMPT AT ASSIMILATION OF THE EEZ INTO THE TERRITORIAL SEA WAS COUNTERED BY THE USSR, BULGARIA, CUBA, AND, TO A LESSER EXTENT, BY IRAQ. SUGGESTED AMENDMENTS TO ARTICLE 56 WERE REJECTED BY CAMEROONS, MAURITIUS, AND NORWAY, ALL OF WHOM ADVOCATED RETENTION OF THE CURRENT TEXT. SIGNIFICANTLY, MEXICO ALSO REJECTED THESE EXTREME POSITIONS IN ARTICLE 56 AND ARTICLE 59. AUSTRIA SUPPORTED URUGUAY ON ARTICLE 59, BUT FOR WHOLLY DIFFERENT REASONS. INDONESIA SOUGHT DELETION OF "SEA LANES" IN ARTICLE 60(7) AND INSERTION OF THE WORDS "NAVIGABLE CHANNEL." THE USSR WOULD AMEND ARTICLE 60 BY ADDING AT THE END OF ITS PARA 2 LANGUAGE TO PROTECT THE RIGHTS OF THIRD STATES WHICH OBTAINED AUTHORIZATION FROM COASTAL STATES TO CONSTRUCT ARTIFICIAL ISLANDS, STRUCTURES AND INSTALLATIONS

8. OTHER DEVELOPMENTS: AUSTRIA'S "COMPROMISE" PROPOSAL

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ON ARTICLE 55 WAS ENDORSED BY THE LL/GDS GROUP AND WILL BE PRESENTED TO COMMITTEE AS AN INFORMAL PROPOSAL OF THAT GROUP. THE U.S. (CLINGAN) CLARIFIED ITS POSITION ON ARTICLE 55, NOTING THAT ITS SUPPORT OF THE SOVIET PROPOSAL WAS DESIGNED NEITHER TO UPSET THE BALANCE OF THE ICNT EEZ PACKAGE NOR TO ALTER THE LEGAL MEANING OF ITS INDIVIDUAL AND/OR COLLECTIVE PROVISIONS. THE U.S. OPPOSED THE MEXICAN-PLUS-49 STATES AMENDMENT ON THE BASIS THAT IT DID UPSET THE BALANCE OF THE EEZ LEGAL REGIME.

9. VALLARTA POLLUTION WORKING GROUP MET TO RECEIVE THE LATEST AGREED AMENDMENTS (FROM THE SMALL NEGOTIATING GROUP) AND TO DISCUSS THE REPORT TO BE MADE TO COMMITTEE III CHAIRMAN YANKOV. THE AMENDMENTS (SENT SEPTTEL) INCLUDE: ARTICLE 212(2) BIS; ARTICLE 221(6); ARTICLE 222, AND ARTICLE 231(1). THERE WERE A FEW RESERVATIONS TO THE PROPOSALS BUT VALLARTA SAID HIS REPORT WOULD REFLECT THAT THESE PROPOSALS NEVERTHELESS REPRESENTED A SUBSTANTIALLY IMPROVED LIKELIHOOD OF CONSENSUS.

10. FOLLOWING ITS REPORT OF A SUCCESSFUL COMPROMISE ON ECONOMIC ZONE FISHERIES DISPUTES, THE MANDATE OF NEGOTIATING GROUP 5 WAS EXTENDED TO THE RESTRUCTURING OF ARTICLE 296, CONCERNING OTHER DISPUTE SETTLEMENT MATTERS IN THE ECONOMIC ZONE. ALSO INCLUDED IN THE NEW MANDATE IS THE FATE OF THE SECOND CLAUSE OF ARTICLE 297(1)(B), THE OPTIONAL EXCEPTION FOR COASTAL STATE LAW ENFORCEMENT ACTIVITIES, AN ISSUE REVIVED BY THE SOVIET UNION. THE FULL NEGOTIATING GROUP REFERRED ALL OF THESE ISSUES TO THE SMALL WORKING GROUP OF 15, WHICH WILL REPORT DIRECTLY TO THE PLENARY. RICHARDSON

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## Message Attributes

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**Current Classification:** UNCLASSIFIED  
**Concepts:** LAW OF THE SEA, MEETING REPORTS, MEETINGS, NEGOTIATIONS  
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**Copy:** SINGLE  
**Draft Date:** 16 may 1978  
**Decaption Date:** 01 jan 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 20 Mar 2014  
**Disposition Event:**  
**Disposition History:** n/a  
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**Disposition Remarks:**  
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**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** GS  
**Errors:** N/A  
**Expiration:**  
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Sheryl P. Walter  
Declassified/Released  
US Department of State  
EO Systematic Review  
20 Mar 2014  
**Markings:** Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014